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March 1, 1996

VIA HAND DELIVERY

Mr. William F. Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, N.W., Room 222  
Washington, DC 20554

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MAR - 1 1996

FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

Re: Comments of GO Communications Corporation on  
Flexible Service Offerings for CMRS Providers, WT Docket 96-6

Dear Mr. Caton:

Enclosed please find for filing an original and four copies of GO Communications Corporation's comments on the FCC's Notice of Proposed Rulemaking on Flexible Service Offerings for CMRS Providers, WT Docket 96-6, released January 25, 1996. We have also enclosed a file copy which should be stamped and returned with the courier.

If you have any questions regarding this filing, please contact the undersigned at (703) 518-4302.

Sincerely,

A handwritten signature in black ink, appearing to read "Leo R. Fitzsimon".

Leo R. Fitzsimon

Enclosures

No. of Copies rec'd 044  
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*Before the*  
**FEDERAL COMMUNICATIONS COMMISSION**  
*Washington, D.C. 20554*

In the Matter of )  
 )  
Amendment of the Commission's Rules )  
To Permit Flexible Service Offerings )  
in the Commercial Mobile Radio Services )

WT Docket No. 96-6

**RECEIVED**

**MAR - 1 1996**

**COMMENTS OF GO COMMUNICATIONS CORPORATION  
CONCERNING FLEXIBLE  
SERVICE OFFERINGS FOR CMRS PROVIDERS**

**FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY**

GO Communications Corporation ("GO") hereby submits its comments in response to the Notice of Proposed Rulemaking ("NPRM") in the above-captioned proceeding.<sup>1</sup> GO commends the Commission for initiating this proceeding and supports its proposal to clarify that CMRS providers may offer fixed wireless local loop services as an integral part their combined fixed and mobile offerings. GO further asserts that all CMRS providers should be allowed to provide any other fixed services as long as these providers continue to provide for-profit mobile services on their licensed spectrum. Without the ability to provide fixed wireless local loop, CMRS providers will not be able to provide meaningful competition in the provision of local exchange service in the United States.

**I. DISCUSSION**

- A. The Commission's Rules Presently Allow CMRS Providers to Provide Fixed Wireless Local Loop Service

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<sup>1</sup> Notice of Proposed Rulemaking, WT Docket No. 96-6, (January 25, 1996).

GO disagrees with the Commission's conclusion that uncertainty exists regarding the extent to which fixed services may be provided by CMRS providers but agrees with the Commission's proposal to amend its rules to explicitly allow CMRS providers to offer fixed wireless local loop service.<sup>2</sup> GO believes that even under the current rules, CMRS providers are able to provide fixed services such as wireless local loop. In prior CMRS regulation proceedings, the Commission has consistently sought the maximum degree of regulatory flexibility for the development of new wireless services in order to allow new providers to meet the rapidly changing demands of consumers and to be able to deploy the latest advances in communications technology. In the *CMRS Second Report and Order*, the Commission stated:

we agree . . . that all auxiliary services provided by mobile services licensees should be included within the definition of mobile services . . . and we agree . . . that all ancillary fixed communications offered by PCS providers should fall within the definition of mobile service. This is consistent with the approach we have already taken in the PCS rule making proceeding, and we conclude that giving this scope to the definition of mobile service will ensure that mobile service providers will have the flexibility necessary to meet growing consumer demand for a broad range of mobile services.<sup>3</sup>

In the *PCS Second Report and Order*, the Commission adopted the following definition of broadband PCS:

Radio Communications that encompass mobile and ancillary fixed communications services that provide services to individuals and businesses and can be integrated with a variety of competing networks.<sup>4</sup>

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<sup>2</sup> As described at p. 5, GO supports the Commission extending the same regulatory treatment for the provision of fixed services to all CMRS providers. Thus any proposed clarification of one set of rules should apply uniformly to all CMRS providers.

<sup>3</sup> *In the Matter of Implementation of Sections 3(n) and 332 of the Communications Act*, GN Docket No. 93-252, Second Report and Order, 9 FCC Rcd 1411, 1424 (1994) ("*CMRS Second Report and Order*") at ¶ 36 (internal citations omitted).

<sup>4</sup> *In the Matter of Amendment of the Commission's Rules to Establish new Personal Communications Services*, GN Docket No. 90-314, Second Report and Order, 8 FCC Rcd 7700, 7713 (1993) ("*PCS Second Report and Order*") at ¶ 24.

While the Commission included the word “ancillary” in its discussion of fixed services offered by PCS providers, it comments that this was only out of concern “that there is only a limited amount of spectrum available to meet the primary purpose of people on the move.”<sup>5</sup> As stated by the Commission, there was no intent in including the ancillary fixed language to exclude fixed services entirely.<sup>6</sup> Rather, the Commission merely wished to preserve adequate spectrum for the anticipated mobile use of PCS. As PCS providers develop their service plans and marketing strategies for the ever-evolving wireless telecommunications market, however, it is evident that concerns about adequate spectrum should be addressed by each carrier as they respond to consumer demand for different services, rather than by regulatory decree. Further, the Commission has stressed that the definition of PCS must allow PCS providers “the maximum degree of flexibility” in meeting the communications needs of their subscribers.<sup>7</sup> This is consistent with the Commission’s prior discussions regarding the regulatory approach to adopt for PCS. The Commission proposed four goals in establishing PCS, (1) universality; (2) speed of deployment; (3) *diversity of services*; and (4) *competitive delivery*.<sup>8</sup> The Commission also stated that its goal in defining PCS was:

to ensure that PCS would include the widest possible delivery of services for individuals and business, and that PCS providers would be able to employ the ‘maximum degree of flexibility’ in meeting the communications requirements of various users. We also believe that Congress’s intent in adopting the Budget Act was to maximize the competitiveness and public availability of PCS spectrum.<sup>9</sup>

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<sup>5</sup> *Id.* at ¶ 23.

<sup>6</sup> NPRM at ¶ 12.

<sup>7</sup> *CMRS Second Report and Order*, 9 FCC Rcd 1411, 1460 at ¶ 118.

<sup>8</sup> *Id.* (emphasis added).

<sup>9</sup> *Id.* (internal citations omitted).

As noted below, GO believes that the same factors considered by the Commission in defining PCS apply equally to other CMRS providers. The Commission's discussions of the scope of permissible services for all CMRS providers throughout the CMRS/PCS regulatory proceedings indicate that it has always sought to provide CMRS providers the flexibility necessary to remain competitive by offering innovative wireless products and service to their customers. The Commission has wisely decided to amend its rules to clarify the wide scope of wireless services which CMRS providers are permitted to offer.

B. The Provision of Fixed Wireless Local Loop Service is a Necessary Precondition for CMRS Providers to Provide Meaningful Competition in the Provision of Local Exchange Telephone Service

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The Commission has made it clear that it views new CMRS services such as PCS not only as competitors to existing cellular service in the provision of mobile wireless communications but also as viable competitors to LEC-provided wireline service.<sup>10</sup> Congress expressed its desire to remove barriers on the provision of local exchange service in the Telecommunications Act of 1996 (the "1996 Act").<sup>11</sup> As mentioned by the Commission, many states have actively sought to encourage competition in the provision of local exchange service.<sup>12</sup>

The provision of wireless local loop services is a necessary precondition for CMRS providers to be able to provide this type of competition with LECs and Competitive Access Providers ("CAP") in the provision of local exchange telephone service. CMRS providers will

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<sup>10</sup> See NPRM at ¶ 8. See Also *In the Matter of Interconnection Between Local Exchange Carriers and Commercial Mobile Radio Service Providers and Equal Access and Interconnection Obligations Pertaining to Commercial Mobile Radio Service Providers*, CC Docket Nos. 95-185, 94-54, Notice of Proposed Rulemaking, (January 11, 1996). See also *In the Matter of Telephone Number Portability*, Notice of Proposed Rulemaking, CC Docket No. 95-116, FCC 95-284 (July 13, 1995).

<sup>11</sup> Telecommunications Act of 1996, Pub. L. No. 104-104, 110 Stat. 56 (1996).

<sup>12</sup> NPRM at ¶ 8.

market a package of services which will accommodate both the mobile and fixed communications needs of their subscribers. Regulatory constraints on CMRS providers' ability to offer fixed services to customers will hamper their ability to provide real competition in the heretofore monopoly local telephone service market. In order to compete with LEC offerings, the Commission must make it clear that CMRS providers are allowed to offer the widest array of service offerings possible, including wireless local loop and other fixed services.

C. All CMRS Providers Should Receive the Same Regulatory Treatment for the Provision of Fixed Services

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GO supports the Commission's proposal to extend the same regulatory treatment for fixed services to all categories of CMRS that have the potential to compete with PCS.<sup>13</sup> Allowing all CMRS providers to provide wireless local loop and other fixed services will result in a more competitive communications industry where innovative service offerings and lower prices will be offered to consumers. As noted in the NPRM, the Commission has previously stated that all commercial mobile radio services are "substantially similar" by virtue of existing competition or by virtue of the possibility of future competition.<sup>14</sup> Further, the Commission has determined that the Omnibus Budget Reconciliation Act of 1993 (the "Budget Act") requires the regulation of all mobile service providers under a "comprehensive, consistent regulatory framework and gives the Commission flexibility to establish appropriate levels of regulation for mobile radio service providers."<sup>15</sup> Allowing all CMRS providers the same opportunity to provide

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<sup>13</sup> NPRM at ¶¶ 16, 20.

<sup>14</sup> NPRM at ¶ 16 (quoting the *CMRS Third Report and Order*).

<sup>15</sup> *Second Report and Order*, ¶ 12.

wireless local loop and other fixed services will foster the development of a highly competitive wireless communications industry in which all competitors are treated with regulatory parity.

D. Amended Rules Must Maintain Requirement That all CMRS Providers Provide Mobile Service

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GO agrees with the Commission's proposal to treat fixed wireless local loop services as an integral part of the CMRS services offered by a CMRS provider.<sup>16</sup> GO also believes that the Commission is correct in qualifying this proposal by requiring CMRS providers to "otherwise offer[ ] interconnected, for-profit mobile service to the public on licensed CMRS spectrum as provided by the Communications Act."<sup>17</sup> While we agree that CMRS providers should be given "the maximum degree of flexibility" in determining the range of services they offer to the public, allowing CMRS providers to offer fixed services exclusively would be contrary to the Commission's intended use of CMRS-designated spectrum and could lead to concerns about the adequacy of such spectrum for mobile service offerings.

E. Both Fixed and Mobile Wireless Services Should be Considered Integral Parts of the Combined Mobile and Fixed Offerings of CMRS Providers

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We agree with the Commission's proposal to amend the existing broadband PCS rules to clarify that broadband PCS providers be allowed to offer both mobile and fixed wireless local loop services, provided that fixed services are offered with mobile services.<sup>18</sup> As CMRS

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<sup>16</sup> NPRM at ¶ 20.

<sup>17</sup> *Id.*

<sup>18</sup> *Id.* at ¶ 13. GO notes that the Commission discusses the treatment of fixed wireless local loop services separately for PCS and other CMRS providers. For PCS, the Commission states that fixed wireless local loop services be considered a "principal use" of PCS spectrum (NPRM at ¶ 13) and states that for other CMRS providers, fixed wireless local loop service be considered "an integral part of the CMRS services offered" (NPRM at ¶ 20). GO urges the Commission to clarify that its use of different terms does not suggest disparate regulatory treatment for similar CMRS services.

technology continues to develop and CMRS service providers continue to develop innovative service offerings, there should be no regulatory requirement that such providers prove that new fixed services are ancillary to their mobile service offerings. As contemplated by the Commission, prospective PCS providers such as GO plan to offer integrated packages of seamless mobile and fixed service offerings. For example, a PCS customer may purchase a completely wireless system which replaces both its cellular and wireline phones. Such a system will function as a traditional mobile phone when the subscriber is away from home and as a traditional landline phone when he or she uses it at home. This type of offering should be allowed as it is in the public interest and is fully in compliance with the Omnibus Budget Reconciliation Act of 1993.

In order for PCS providers to offer such a seamless package, both the mobile and fixed aspects of the service must receive identical regulatory treatment. As noted by the Commission, the goal of the Budget Act was to ensure that the marketplace, not disparate regulatory requirements, determine the type of services developed and offered by emerging wireless communications providers.<sup>19</sup> If separate regulatory requirements are imposed such service offerings would be untenable and consumers would not be able to enjoy the latest advances in wireless communications technology. Unnecessary regulatory requirements must not prohibit the emerging competitive wireless industry from offering any technically feasible fixed or mobile services to customers.

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<sup>19</sup> *Id.* at ¶ 19.



F. CMRS Providers Should be Able to Provide all Feasible Fixed Wireless Services

As the wireless communications industry becomes increasingly competitive with the addition of up to six new PCS providers to each market previously served by only a cellular duopoly, competitors will be fighting for a limited base of customers in a more crowded competitive environment. The rapid development and introduction of innovative communications services will be key to allowing competitors to differentiate themselves in order to attract new customers in this ultra-competitive environment. To promote the development of such new services and increased competition, CMRS providers should be permitted to provide any form of fixed service.<sup>20</sup>

## II. CONCLUSION

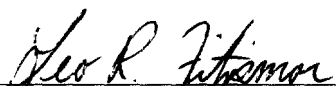
GO supports the Commission's proposal to expand and clarify the types of fixed wireless services mobile service providers are allowed to offer. The ability to offer fixed wireless local loop and other fixed services along with mobile services is necessary for PCS and other CMRS providers to be able to compete with LECs in the provision of local telephone exchange service. The Commission must ensure that wireless competitors are able to respond to the demands of the marketplace by meeting their customer's demands for combinations of fixed and mobile wireless services. Such regulatory flexibility is consistent with the Commission's prior proceedings regarding the nature of PCS and CMRS offerings and is consistent with the de-regulatory and pro-competitive purpose of the 96 Act.

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<sup>20</sup> The Commission asks for comment on whether "CMRS providers should be allowed to provide any form of fixed service without restriction." NPRM at ¶ 22. While GO supports the proposal that CMRS providers be allowed to provide any form of fixed service, we again emphasize that the Commission ensure that all CMRS providers continue to provide "interconnected, for-profit mobile service to the public" as an integral part of their offering.

Respectfully Submitted.

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